

Application Serial No. 10/528,792
Response to Office Action dated January 1, 2009

PATENT
Docket: CU-4106

REMARKS

In the Office Action, claims 1-24 are pending and the Examiner rejected claims 1-24. The Applicant has amended claim 1 and added new claim 25 herein. The Applicant believes that the amendments to the claims overcome the rejection of the same and/or the remarks made herein traverse the rejections. No new matter has been added by way of amendment. The Applicant submits that the claims are in condition for allowance and requests favorable consideration.

In the PCT publication, PCT/FR2003/002730, please add section headings as requested by the Examiner on page 2 of the Office Action. The amendments to the specification can be viewed in the Amendments section of this paper beginning on page 3. No new matter has been added.

The Abstract has also been amended herein. The Applicant has provided both a marked up and clean version of the Abstract section of the application. The amendments to the Abstract section are made for clarity, and therefore, no new matter has been added. A replacement section of the Abstract is provided and it is requested that the Abstract be on a separate page as it is presented herein and as requested by the Examiner. These amendments to the Abstract can be viewed in the Amendments to the Abstract section of this paper beginning on page 5.

In the claims, please amend claim 1 for clarity. The Amendments to claim 1 can be found in the original disclosure, and therefore, no new matter has been added. Furthermore, the Applicant has newly added claim 25. Support for this new claim can also be found in the original disclosure. Please also amend claims 2 and 4 for clarity. The amendments to the claims can be viewed in the Amendments section in the Listing of Claims beginning on page 7 of this paper.

In the Office Action, the Examiner rejected claims 1-24 under 35 U.S.C. §112, second paragraph, for being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

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In response, the Applicant has amended claim 1 herein. The offending language "or similar elements" has been removed. In addition, the terms "they," "their," "its," and "them" have been removed from claims 1, 2, and 4. In claim 1, the term "...forming a..." has been removed from the claim and the wording clarified. The terms "the flanks," "the successive flank," and "the parts," have been provided with antecedent basis or the language amended for clarification.

The Applicant submits, therefore, that the grounds for the rejection under 35 U.S.C. §112, second paragraph, have been removed. The Applicant further respectfully requests that the Examiner withdraw this ground of rejection of the claims.

In the Office Action, the Examiner also rejected claims 1-24 on the ground of non-statutory, judicially created, double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 7,331,402. In response, the Applicant has herewith filed a Terminal Disclaimer pursuant to the provisions of 37 C.F.R. §1.321(c), and respectfully submits that said Disclaimer overcomes the asserted grounds of rejection. The Applicant respectfully requests, therefore, that the Examiner withdraw the obviousness type double patenting rejection.

Finally, the Examiner rejected claims 1-3 and 24 under 35 U.S.C. §102(b) as anticipated by Chase (U.S. 2,244,099).

The Applicant disagrees.

It is well established that to anticipate a claim each and every element of the claim has to be taught by the alleged prior art reference. Chase discloses a rotary cutter including a series of cutters mounting plates 24 and a series of cutting blades 25 assembled and locked in place on a mandrel 20 between a washer 23 and a sprocket 21. Chase also provides flat cutter blade gripping faces 31 and 32 on opposite sides of each mounting plate and extend radially from a central opening 30 of the plate.

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Each of the cutter blades 25 includes a flat sheet of metal provided with holes 52 and each of these blades is adapted to have one end thereof inserted between an adjacent pair of plates 24 when the later are not tightly assembled together, the holes 52 being so located that one of these holes is disposed to receive the tit 36 of the adjacent face 32 of the plate when the blade is inserted as shown in figures 3 and 5.

When the nut 22 is tightened, all the plates 24 are clamped together, therefore rigidly uniting the cutter blades 25 with the rotary cutter 16.

When the blade 25 should be replaced by a new blade, the nut 22 is unscrewed and adjacent pair of plates 24 can be slightly separated from one another so that the blade 25 between these two plates may be removed and replaced by a new blade. Then, the nut 22 is tightened so that the blade can be again clamped between the plates 24.

Claim 1 of the present invention is distinguishable from the Chase disclosure in that each plate of the claimed device has at least one cut-out made in a flank of the plate opening out laterally at the periphery of the plate and shaped to receive in an interlocking manner and to radially retain a complementary flat part of the blade support foot, so that when all the blades are clamped between their respective plates, the blades cannot escape radially from the plate.

In the rotary cutter of Chase, each of the two opposite faces 31, 32 of a plate 24 is not provided with a cut-out, shaped to receive in an interlocking manner and to radially retain a complementary flat part of a foot of the blade 25.

In Chase, each blade 25 is radially retained by a tit 36 inserted in the corresponding hole 52 of the blade 25. Such a known configuration has a major drawback in that the tit is rather fragile and may therefore break so that the corresponding blade would escape radially from the blade 24 during operation of the rotary cutter.

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Since Chase does not teach a face of a plate having a cut-out which can cooperate with a complementary flat part of a blade support foot to radially retain the blade, the Applicant submits that claim 1 is not anticipated by Chase and is novel.

It is axiomatic that if an independent claim is allowable, then any claim depending therefrom is also allowable. Since claims 2-24 depend from claim 1, the Applicant respectfully requests that claims 2-24 also overcome the rejection. The Applicant thus respectfully requests that the Examiner withdraw the rejection of claims 1-24 under 35 U.S.C. § 102(b).

Of note is that new claim 25 combines the features of allowable claim 1 and claim 13. The Applicant submits that Chase does not teach the features of claim 25, for instance the specific construction of each cut-out of a plate to radially retain the corresponding blade. Therefore, the Applicant submits that since Chase does not teach all of the limitations of claim 25, claim 25 is likewise novel.

CONCLUSIONS

The Applicant respectfully contends that all conditions of patentability are met in the pending claims. Applicant respectfully submits that this application should be in condition for allowance. Furthermore, Applicant respectfully requests favorable consideration.

Respectfully Submitted,



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